

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7839 of 1996

For Approval and Signature:

Hon'ble MR.JUSTICE M.S.PARIKH

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

GULAM SABIR ABDULRAHIM KURESHI

Versus

SURAT MUNICIPAL CORPORATION

Appearance:

MR PB MAJMUDAR for Petitioners

MR PG DESAI, for the respondents

CORAM : MR.JUSTICE M.S.PARIKH

Date of decision: 18/10/96

ORAL JUDGEMENT

Rule. Service of Rule waived by Mr.P.G.Desai,
learned Advocate appearing for the respondents.

2. Heard. It is not in dispute that licences were issued in favour of the petitioners permitting them to do their business as set out in the licences upto September, 1997. The respective shops of the petitioners are located at Katargam area in the city of Surat. It is

also not in dispute that the impugned order (Annexure : A) dated 27.9.1996 calling upon the petitioners not to start the shops for sale of mutton till further orders is passed without hearing the petitioners or without giving opportunity to the petitioners of being heard.

3. On going through the Affidavit in Reply and having heard the learned Advocate for the respondents it appears that the respondents were compelled to pass the impugned order on account of public agitation as narrated in the Affidavit in Reply. If the hearing is given to the petitioners appropriate formula might be worked out. However, the impugned order which is passed without hearing the petitioner cannot be sustained.

4. In view of what is stated above and in the facts of the case following directions are issued :

The impugned orders (Annexure : A) dated 27.9.96 and 3.10.1996 are hereby quashed and set aside while leaving the respondents at liberty to deal with the matter after giving opportunity to the petitioners of being heard. It will also be open to the respondents to pass appropriate order in accordance with law, however, after hearing the petitioners. In case the decision is taken against the petitioners the same shall not be implemented for a period of one week from the date of receipt of such decision by the petitioners.

Rule made absolute in the aforesaid terms. No order as to costs.

* * * * *